<u>R**EMARKS**</u>

[0010]   Applicant respectfully requests reconsideration and allowance of all of the claims of the application. The status of the claims is as follows:

- Claims 1, 5, 6, 8-16, 25-33, 36 and 37 are currently pending

- Claim 3 is canceled herein

- Claim 1 is amended herein

Support for amendments of claim 1 can be found at the Application, as originally filed, at least at [0025], [0033], [0039], [0044], [0046] – [0048], [0051], [0055], [0056], Fig. 6, and Fig. 7.

Cited Documents

[0011]   The following documents have been applied to reject one or more claims of the Application:

- *Knudson'823*: *Knudson, Edward B.*, U.S. Patent No. *7,254,823*

- *D'Souza*:   *D'Souza, et al.*, U.S. Patent Application Publication No. *2006/0117348*

- *Jerding'616*: *Jerding, et al.*, U.S. Patent No. *6,792,616*

- *Jerding'982*: *Jerding, Dean F.*, U.S. Patent No. *6,738,982*

- *Houghton*:   *Houghton, et al.*, U.S. Patent Application Publication No. *2005/0021609*

- *Hassell*: *Hassell, et al.*, U.S. Patent Application Publication No. *2007/0033615*

- *Hoarty*: *Hoarty, et al.,* U.S. Patent No. 6,305,020

- *Knudson'577*: *Knudson, et al.,* U.S. Patent No. 6,526,577

Claims 1, 5, 6, and 8 Are Non-Obvious Over Knudson'823 in view of D'Souza in view of Jerding'616 in view of Jerding'982 in view of Houghton and further in view of Hassell.

[0012]   Claims 1, 5, 6, and 8 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Knudson'823 in view of D'Souza in view of Jerding'616 in view of Jerding'982 in view of Houghton and further in view of Hassell. Applicant respectfully traverses the rejection.

Independent Claim 1

[0013]   Applicant submits that the combination of Knudson'823, D'Souza, Jerding'616, Jerding'982, and Houghton does not teach or suggest at least the following features as recited in this claim:

"forming, by a client which is a device configured to provide virtual tuner function, a request for Electronic Programming Guide (EPG) data for communication to a EPG provider over a network, the request including a client identification to identify the client such that the EPG provider is capable to identify an access right of the client, EPG data including data that describes characteristics of a content that is provided by a content

provider remotely over the network, EPG data being processed by the EPG provider into a suitable form for storage and processed on the client;

receiving, by the client, EPG data from the EPG provider;

examining, by the client, to find one or more locally available contents for output on the client, the locally available contents including:

a local content previously stored on the client from a broadcast of a content provider over the network; and

a local content that is available for output through execution of one or more applications installed on the client, the one or more applications including:

a web browser;

a game application; and

an application that is utilized to output television program;

generating, by the client, a EPG for display based on EPG data received from the EPG provider and a result of the examining, the EPG including a plurality of representations of a plurality of contents for simultaneous display by the client, wherein:

the plurality of contents include remote content available over the server represented by EPG data and local content available locally on the client;

the plurality of contents include:

a television programming for receipt by the client over a network;

a video-on-demand (VOD); and

an interactive video game;

the EPG is configured to form one or more events in response to a user interaction with one or more said representations, wherein the one or more

events are based on information other than application identification information originating from the server;

outputting, by the client, the EPG;

forming, by the client, a selection that identifies a content selected by a user through interaction with the EPG, the selection specifying a content type and a content ID of the selected content, the content type being utilized to indicate a type of application that is suitable for processing the content, the content ID being utilized to identify the content;

utilizing, by the client, a virtual tuner executed on the client in response to the selection to unify execution of the plurality of applications, the utilizing including:

managing execution of each said plurality of applications to provide respective said content represented by the EPG in response to the events formed utilizing the EPG, said virtual tuner utilizing an application identification table that includes a listing of the one or more applications to enable execution of each of said plurality of applications;

launching one or more of the plurality of applications that have a content type that matches the content type of the selection;

passing the content ID to the application such that the application is capable to locate the content for output;

managing a lifecycle of each said application to output respective said content represented by the EPG automatically and without the user intervention, wherein the lifecycle includes:

launching the said application;

rendering the respective said content represented by the EPG on respective windows that are displayed on a display device, each window being utilized to display an output for the said content executed by the respective said application;

managing one or more windows that are displayed on a display device, the managing including managing place of the one or more windows displayed on the display device; and

terminating the said application when output of the content is completed.;

utilizing, by the client, the virtual tuner executed on the client in response to an event, relating to a working background of the one or more applications, not to be executed by a particular application, the utilizing including:

switching from a display device to another; and

changing color of a display of rendered content; and

utilizing, by the client, the virtual tuner executed on the client in response to an event requiring additional application or hardware resource to output a content, to initiate a process to include additional functionality to output the content"

[0014]   Claims 1 presently recites in part:

- "forming, by a client which is a device configured to provide virtual tuner function, a request for Electronic Programming Guide (EPG) data for communication to a EPG provider over a network, the request including a client identification to

identify the client such that the EPF provider is capable to identify an access right of the client, EPG data including data that describes characteristics of a content that is provided by a content provider remotely over the network";

- "examining, by the client, to find one or more locally available contents for output on the client, the locally available contents including:

    a local content previously stored on the client from a broadcast of a content provider over the network; and

    a local content that is available for output through execution of one or more applications installed on the client, the one or more applications including:

        a web browser;

        a game application; and

        an application that is utilized to output television program"

- "generating, by the client, a EPG for display based on EPG data received from the EPG provider and a result of the examining, the EPG including a plurality of representations of a plurality of contents for simultaneous display by the client"

- "the plurality of contents include:

    a television programming for receipt by the client over a network;

    a video-on-demand (VOD); and

    an interactive video game"

[0015]   After a review of the references cited by the Examiner, Applicant asserts that none of the cited references disclose these newly added features as presently recited in claim 1. These features have not been previously considered by the Examiner. These

features are supported by the Application, as originally filed, at least at [0025], [0033], [0039], and [0044],

[0016] For example, D'Souza only describes VOD client software. In contrast, this claim presently recites "a game application" and "an interactive video game".

[0017] For another example, Hassell describes "program guide may also provide selectable listing of programs currently stored on digital storage device". [0038]. In contrast, this claim presently recites "**examining, by the client, to find one or more locally available contents for output on the client, the locally available contents including: a local content previously stored on the client from a broadcast of a content provider over the network; and a local content that is available for output through execution of one or more applications installed on the client, the one or more applications including: a web browser; a game application; and an application that is utilized to output television program**" which are not disclosed, taught, or suggested by Hassell.

[0018] In addition, claims 1 presently recites in part:

- "forming, by the client, a selection that identifies a content selected by a user through interaction with the EPG, the selection specifying a content type and a content ID of the selected content, the content type being utilized to indicate a type of application that is suitable for processing the content, the content ID being utilized to identify the content"

- "launching one or more of the plurality of applications that have a content type that matches the content type of the selection"

- "passing the content ID to the application such that the application is capable to locate the content for output"

[0019]   After a review of the references cited by the Examiner, Applicant asserts that none of the cited references disclose these newly added features as presently recited in claim 1. These features have not been previously considered by the Examiner. These features are supported by the Application, as originally filed, at least at [0046] – [0048] and Fig. 6.

[0020]   In addition, claim 1 presently recites in part:
- "utilizing, by the client, the virtual tuner executed on the client in response to an event, relating to a working background of the one or more applications, not to be executed by a particular application, the utilizing including:
    switching from a display device to another; and
    changing color of a display of rendered content
- "utilizing, by the client, the virtual tuner executed on the client in response to an event requiring additional application or hardware resource to output a content, to initiate a process to include additional functionality to output the content"

[0021]   After a review of the references cited by the Examiner, Applicant asserts that none of the cited references disclose these newly added features as presently recited in claim 1. These features have not been previously considered by the Examiner. These

features are supported by the Application, as originally filed, at least at [0051], [0055], [0056], and Fig. 7.

[0022]   For example, Jerding'982 only describes "the SAM 29 handles the lifecycle of the applications on the system, including the definition, initiation, activation, suspension and deletion of services they provide and the downloading of the application into the DHCT as necessary".

[0023]   In contrast, this claim presently recites "utilizing, by the client, the virtual tuner executed on the client **in response to an event, relating to a working background of the one or more applications, not to be executed by a particular application**".

[0024]   In addition, claim 1 recites in part:

- "utilizing, by the client, **a virtual tuner executed on the client** in response to the selection to unify execution of the plurality of applications, the utilizing including:

    managing a lifecycle of each said application to output respective said content represented by the EPG automatically and without the user intervention, wherein the lifecycle includes:

    launching the said application;

    rendering the respective said content represented by the EPG on respective windows that are displayed on a display device, each window being utilized to display an output for the said content executed by the respective said application;

managing one or more windows that are displayed on a display device, the managing including managing place of the one or more windows displayed on the display device"

[0025]   The Examiner indicates, on Office Action, p. 12 and 13:

"managing one or more windows that are displayed on a display device, the managing including managing place of the one or more windows displayed on the display device (Col 7: line 40 - Col 8: line 4, Col 6: lines 1-8 teaches presenting applications in only a portion of the display while another service is presented in another portion of the display. The SAM Fig.2, 37 overlays the email application over the current TV program (or any existing service or application). So the email application can be overlaid on top of an underlying program in full screen mode. It is inherent that each application here has its own window for the overlaying and displaying of content. Col 3: lines 23-27 teaches that the SAM is in charge of the definition, initiation, activation and as taught in the previously cited paragraphs, applications are presented in portions of the display where the areas the application is displayed in can be defined and managed by the definition and activation by the SAM. Applications can also displayed on top of other applications. Therefore, the SAM can manage applications to be displayed, but not solely limited to, on defined locations of the screen, as well as on top of other applications, effectively managing place of one or more windows on a display device)"

[0026]   The cited portions of Jerding'982 describes:

"The SAM 29 handles the lifecycle of the applications on the system, including the definition, initiation, activation, suspension and deletion of services they provide and the downloading of the application into the DHCT 16 as necessary". Col. 3, lines 23-27
"As an additional non-limiting example, the selectable link … when activated overlays the email service on top of the underlying application in full screen mode.
Some applications may be configured so that they are presented to the user in only a portion of display while another service is presented to the user in another portion of the screen display."
Col. 7, lines 40-46.

[0027]   Jerding'982 only describes "definition … of the service". Col. 3, lines 23-27.
Jerding'982 also only describes an example that "overlays the email service on top of the underlying application in full screen mode" depending on the "selectable link". Col.

7, lines 40-42. The selectable link is controlled by a HTML engine. See Jerding'982, col. 4, lines 19 and 20. The HTML engine and SAM is distinct as shown in Fig. 2 of Jerding'982.

[0028]   Applicant respectfully points out that the Examiner has provided no objectively verifiable evidence, or argument based on objectively verifiable evidence, as to why the text of the document passages should be interpreted as "SAM can manage applications to be displayed, but not solely limited to, on defined locations of the screen, as well as on top of other applications, effectively managing place of one or more windows on a display device". See Office Action, p. 13. Jerding'982 itself expressly describes "the selectable HTML link definition may additionally include information regarding activation of the target service in a specified screen state and location". Co. 7, lines 31-33.

[0029]   It is thus apparent that, contrary to the Examiner's conclusion, the screen location is predetermined by the link instead of managed by the SAM.

[0030]   In contrast, this claim recites "utilizing, by the client, **a virtual tuner executed on the client** in response to the selection to unify execution of the plurality of applications, the utilizing including: ... **managing one or more windows that are displayed on a display device, the managing including managing place of the one or more windows displayed on the display device**".

[0031]   In addition, this claim recites:

- "utilizing, by the client, a virtual tuner executed on the client in response to the selection to unify execution of the plurality of applications, the utilizing including:

managing execution of each said plurality of applications to provide

respective said content represented by the EPG in response to the events

formed utilizing the EPG, said virtual tuner utilizing an application identification

table that includes a listing of the one or more applications to enable execution of

each of said plurality of applications"

[0032] The Examiner indicates on Office Action, pp. 8 and 9, with emphasis added:

"executing, by the client, a virtual tuner on the client to manage execution of each said plurality of applications to provide respective said content represented by the guide in response to the events formed utilizing the guide (Knudson'823 - Col 9: lines 5-14, Col 5: lines 43-46; D'Souza – application launcher 220-Fig.2; Paragraph 0029, 0037-0038 teaches software which manages the execution of each of the applications in response to events formed utilizing the guide).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Knudson'823s system to include a client which is a device configured to provide a virtual tuner function; the client includes a plurality of applications; one or more said content is provided for output by a respective said application; form one or more events in response to a user interaction with one or more representations, wherein the one or more events are based on information other than application identification information originating from the server; executing, by the client, a virtual tuner on the client to manage execution of each said plurality of applications to provide respective said content represented by the guide in response to the events formed utilizing the guide, as taught by D'Souza, **for the advantage of allowing a variety of desired content to be launched and played to the user independently by the system, providing a more intuitive, versatile, and robust system having greater control and management over execution of content."**

[0033] In the Response to Arguments section, the Examiner also indicates on Office

Action, pp. 2 and 3, with emphasis added:

"The combination of Knudson'823 and D'Souza teaches these claimed limitations. Knudson'823 used as base taught different media type contents displayed on an EPG (Fig.10) that could be selected and provided to the user. It already taught different content displayed on an EPG. It, however, did not explicitly teach in depth the use of a virtual tuner to handle all the management for the provision of content. This was what D'Souza was brought in to explicitly teach. D'Souza taught the use of a virtual tuner to handle management for the

provision of content. **In response to editorial contents is not EPG data, the examiner respectfully disagrees. EPG content is merely just content that is displayed on an EPG while editorial content is of the same type of content, but might not necessarily be displayed on an EPG of D'Souza, so it does not warrant that the virtual tuner of D'Souza would be unable to handle/manage the display of content of Knudson'823. However, both contents are the same, but might be displayed via different mediums.** However, Knudson1823 teaches the display of contents on an EPG, but did not teach that the display of content was handled/managed by a virtual tuner for which D'Souza was brought in to teach. The combination of both Knudson'823 and D'Souza teaches the claimed limitations and are combinable since content presented in Knudson'823 could be handled by the virtual tuner in D'Souza to be launched and displayed."

[0034]   Knudson'823, Fig. 10, describes:

FIG. 10

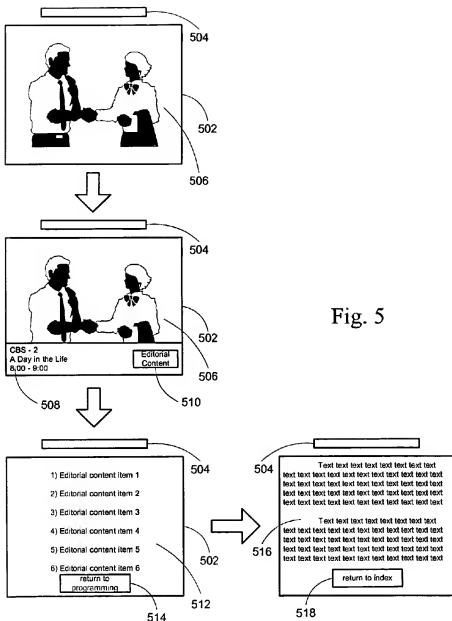**[0035]** D'Souza, Fig. 5, describes:

Fig. 5

[0036] The Examiner appears to implicitly equate the "editorial content item" in D'Souza with the "content" in the claims. The Examiner also indicates "**EPG content is merely just content that is displayed on an EPG while editorial content is of the same type of content, but might not necessarily be displayed on an EPG of D'Souza**". Office Action, p. 4.

[0037]   D'Souza, however, describes that the editorial content is different from EPG data. As clearly seen from the comparison between Fig. 10 of Knudson'823 and Fig. 5 of D'Souza, the "editorial content item" in D'Souza is just rich media description of a EPG content instead of the EPG content itself.   D'Souza describes that the programming content 506 and editorial content 510 are two separate components.

[0038]   Applicant respectfully submits that the Examiner has not met his burden in showing an objective reason to combine Knudson'823 with D'Souza. The assertion "**for the advantage of allowing a variety of desired content to be launched and played to the user independently by the system, providing a more intuitive, versatile, and robust system having greater control and management over execution of content"** is a subjective judgment of the Examiner instead of objective reason.

[0039]   Applicant has a difficult time seeing how the Examiner's interpretation of D'Souza is not based, at least in part, on inadvertent impermissible hindsight.   The Examiner appears to interpret D'Souza through the lens of Applicant's Application. D'Souza is not designed to resolve the problem of launching different applications by clicking on the EPG data. See [0005]. Instead, D'Souza is designed to solve the problem of simplicity of textual description of EPG data.

[0040]   D'Souza, [0005], expressly describes, with emphasis added:

"Currently deployed or developed cable systems provide functionality that allows for brief textual descriptions to be accessed through the use of an input device. **These brief textual descriptions typically comprise a summary of the program, rating, start and end times, and other miscellaneous**

programming data. **These current systems, however, do not provide access to rich media editorial content items. Furthermore, these brief textual descriptions do not provide for interactive functionality or contemplate executing interactive code to better interface with the user**.

[0041] "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness," KSR Int'l Corp. v. Teleflex, Inc., Slip Op. at 14 (U.S. Apr. 30, 2007) (quoting In re Kahn, 441 F. 3d 977, 988 (CA Fed. 2006)).

[0042] Applicant submits that the Examiner has not provided articulated reasoning nor has he identified some evidence, as rational underpinning, from the cited references themselves or from the knowledge of one of ordinary skill in the art that would have led one of ordinary skill in the art at the time of the invention (hereinafter, "OOSA") to combine the disclosures of the cited references in the manner claimed. More specifically, there is no reason to combine because the Examiner has not provided any objective and particular evidence showing why OOSA would be prompted to combine the teachings of Knudson'823 with D'Souza.

[0043] Applicant respectfully submits that the Examiner cannot maintain this obviousness-based rejection without pointing out, with particularity, the specific portions of the cited references that would have prompted OOSA to look towards the teachings of the other to produce the combination of references that the Examiner proposes.

[0044]   For the foregoing reasons, Applicant submits that the Examiner has not met his burden in showing objective evidence to combine documents. Accordingly, OOSA would have no reason to combine the teachings of cited documents.

[0045]   Furthermore, Section 2143.03 of the MPEP requires the "consideration" of every claim feature in an obviousness determination. To render this claim unpatentable, however, the Office must do more than merely "consider" each and every feature for this claim. Instead, the asserted combination of D'Souza and Knudson'823 must also teach or suggest each and every claim feature. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (emphasis added) (to establish prima facie obviousness of a claimed invention, *all the claim features* must be taught or suggested by the prior art).

[0046]   Knudson'823 discloses "a selection screen wherein the program guide displays program listings for channels of available media types". Col. 9, lines 5-7. D'Souza describes displaying editorial contents of the EPG data. See Title and Fig. 5.

[0047]   The combination of Kundson'823 and D'Souza at most disclose, suggest, or teach displaying rich media editorial content items that describe or illustrate the EPG data. See Kundson'823, Fig. 10 and D'Souza, Fig. 5 and [0005].

[0048]   In contrast, claim 1 recites "**utilizing, by the client, a virtual tuner executed on the client in response to the selection to unify execution of the plurality of applications, the utilizing including: managing execution of each said plurality of applications to provide respective said content represented by the EPG in response to the events formed utilizing the EPG**, said virtual tuner utilizing an application identification table that includes a listing of the one or more applications to

enable execution of each of said plurality of applications", which is not disclosed by D'Souza and Knudson'823.

[0049]   As shown above, the combination of Knudson'823, D'Souza, Jerding'616, Jerding' 982, Houghton and Hassell does not teach or suggest all of the elements and features of this claim.   Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 5, 6, and 8

[0050]   These claims ultimately depend upon independent claim 1.   As discussed above, claim 1 is allowable.   It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable.   Additionally, some or all of these claims may also be allowable for additional independent reasons.

Claims 9, 11, 13, 14, and 16 Are Non-Obvious Over Knudson'823 in view of D'Souza

[0051]   Claims 9, 11, 13, 14, and 16 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Knudson'823 in view of D'Souza.. Applicant respectfully traverses the rejection.

Independent Claim 9

[0052] Applicant submits that combination of Knudson'823 and D'Souza does not teach or suggest at least the following features as recited in this claim (with emphasis added):

- "**choosing, by the virtual tuner, one or more of the plurality of applications that, when executed, provide the selected content represented by the EPG**, wherein the choosing is independent of any application identifying information originating from a computer distinct from the client"

[0053] The Examiner indicates (Office Action, pp. 19 and 20) the following with regard to the features of virtual tuner in this claim:

> "choosing, by the virtual tuner, one or more of the plurality of applications that, when executed, provide the selected content represented by the guide, wherein the choosing is independent of any application identifying information originating from a computer distinct from the client (application launcher 220-Fig.2; Paragraph 0029, 0037-0038 teaches software which manages the execution of each of the applications in response to events formed utilizing the guide)"

> "Therefore, it would have been obvious to a person of ordinary skill in the art to modify Knudson'823s system to include a virtual tuner executed on a client; receiving, by the virtual tuner, a selection made from a plurality of content; each said content is provided for output by a respective one or more of a plurality of applications; choosing, by the virtual tuner, one or more of the plurality of applications that, when executed, provide the selected content represented by the guide, wherein the choosing is independent of any application identifying information originating from a computer distinct from the client; and managing, by the virtual tuner, execution of the chosen one or more applications to output the selected content, as taught by D'Souza, for the advantage of allowing a variety of desired content to be launched and played to the user independently by the system, providing a more intuitive, versatile, and robust system having greater

control and management over execution of content."
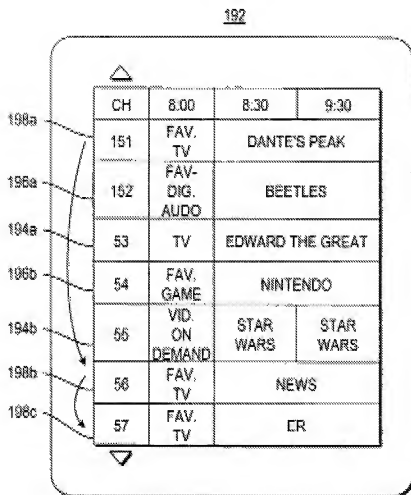
[0054]   Knudson'823, Fig. 10, describes:

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CH	8:00	8:30	9:30
151	FAV. TV	DANTE'S PEAK	
152	FAV-DIG. AUDO	BEETLES	
53	TV	EDWARD THE GREAT	
54	FAV. GAME	NINTENDO	
55	VID. ON DEMAND	STAR WARS	STAR WARS
56	FAV. TV	NEWS	
57	FAV. TV	ER	

(Left-side reference labels: 198a, 196a, 194a, 196b, 194b, 198b, 198c)
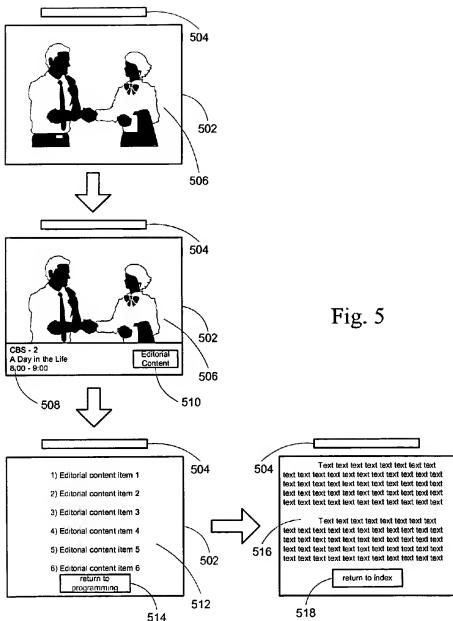
FIG. 10

[0055]   D'Souza, Fig. 5, describes:

Fig. 5

[0056] The Examiner appears to implicitly equate the "editorial content item" in D'Souza with the "content" in the claims. The Examiner also indicates "**EPG content is merely just content that is displayed on an EPG while editorial content is of the same type of content, but might not necessarily be displayed on an EPG of D'Souza**". Office Action, p. 4.

[0057] D'Souza, however, describes that the editorial content is different from EPG data. As clearly seen from the comparison between Fig. 10 of Knudson'823 and Fig. 5 of D'Souza, the "editorial content item" in D'Souza is just rich media description of a EPG content instead of the EPG content itself. D'Souza describes that the programming content 506 and editorial content 510 are two separate components.

[0058] Applicant respectfully submits that the Examiner has not met his burden in showing an objective reason to combine Knudson'823 with D'Souza. The assertion "**for the advantage of allowing a variety of desired content to be launched and played to the user independently by the system, providing a more intuitive, versatile, and robust system having greater control and management over execution of content**" is a subjective judgment of the Examiner instead of objective reason.

[0059] Applicant has a difficult time seeing how the Examiner's interpretation of D'Souza is not based, at least in part, on inadvertent impermissible hindsight. The Examiner appears to interpret D'Souza through the lens of Applicant's Application. D'Souza is not designed to resolve the problem of launching different applications by clicking on the EPG data. See [0005]. Instead, D'Souza is designed to solve the problem of simplicity of textual description of EPG data.

[0060] D'Souza, [0005], expressly describes, with emphasis added:

"Currently deployed or developed cable systems provide functionality that allows for brief textual descriptions to be accessed through the use of an input device. **These brief textual descriptions typically comprise a summary of the program, rating, start and end times, and other miscellaneous**

programming data. These current systems, however, do not provide access to rich media editorial content items. Furthermore, these brief textual descriptions do not provide for interactive functionality or contemplate executing interactive code to better interface with the user.

[0061]   "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness," KSR Int'l Corp. v. Teleflex, Inc., Slip Op. at 14 (U.S. Apr. 30, 2007) (quoting In re Kahn, 441 F. 3d 977, 988 (CA Fed. 2006)).

[0062]   Applicant submits that the Examiner has not provided articulated reasoning nor has he identified some evidence, as rational underpinning, from the cited references themselves or from the knowledge of one of ordinary skill in the art that would have led one of ordinary skill in the art at the time of the invention (hereinafter, "OOSA") to combine the disclosures of the cited references in the manner claimed.   More specifically, there is no reason to combine because the Examiner has not provided any objective and particular evidence showing why OOSA would be prompted to combine the teachings of Knudson'823 with D'Souza.

[0063]   Applicant respectfully submits that the Examiner cannot maintain this obviousness-based rejection without pointing out, with particularity, the specific portions of the cited references that would have prompted OOSA to look towards the teachings of the other to produce the combination of references that the Examiner proposes.

[0064]   For the foregoing reasons, Applicant submits that the Examiner has not met his burden in showing objective evidence to combine documents. Accordingly, OOSA would have no reason to combine the teachings of cited documents.

[0065]   Furthermore, Section 2143.03 of the MPEP requires the "consideration" of every claim feature in an obviousness determination. To render this claim unpatentable, however, the Office must do more than merely "consider" each and every feature for this claim. Instead, the asserted combination of D'Souza and Knudson'823 must also teach or suggest each and every claim feature. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (emphasis added) (to establish prima facie obviousness of a claimed invention, *all the claim features* must be taught or suggested by the prior art).

[0066]   Knudson'823 discloses "a selection screen wherein the program guide displays program listings for channels of available media types". Col. 9, lines 5-7. D'Souza describes displaying editorial contents of the EPG data. See Title and Fig. 5.

[0067]   The combination of Kundson'823 and D'Souza at most disclose, suggest, or teach displaying rich media editorial content items that describe or illustrate the EPG data. See Kundson'823, Fig. 10 and D'Souza, Fig. 5 and [0005].

[0068]   In contrast, this claim recites "**choosing, by the virtual tuner, one or more of the plurality of applications that, when executed, provide the selected content represented by the EPG**, wherein the choosing is independent of any application identifying information originating from a computer distinct from the client", which is not disclosed by D'Souza and Knudson'823.

[0069]   As shown above, the combination of Knudson'823 and D'Souza does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 11, 13, 14, and 16

[0070]   These claims ultimately depend upon independent claim 9. As discussed above, claim 9 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Claim 10 Is Non-Obvious Over Knudson'823 in view of D'Souza and further in view of Hoarty.

[0071]   Claim 10 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Knudson'823 in view of D'Souza and further in view of Hoarty. Applicant respectfully traverses the rejection.

[0072]   This claim ultimately depends upon independent claim 9. As discussed above, claim 9 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, this claim may also be allowable for additional independent reasons.

Claim 12 Is Non-Obvious Over Knudson'823 in view of D'Souza and further in view of Jerding'982.

[0073]   Claim 12 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Knudson'823 in view of D'Souza and further in view of Jerding'982.   Applicant respectfully traverses the rejection.

[0074]   This claim ultimately depends upon independent claim 9.   As discussed above, claim 9 is allowable.   It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable.   Additionally, this claim may also be allowable for additional independent reasons.

Claim 15 Is Non-Obvious Over Knudson'823 in view of D'Souza in view of Houghton and further in view of Hassell.

[0075]   Claim 15 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Knudson'823 in view of D'Souza in view of Houghton and further in view of Hassell. Applicant respectfully traverses the rejection.

[0076]   This claim ultimately depends upon independent claim 9.   As discussed above, claim 9 is allowable.   It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable.   Additionally, this claim may also be allowable for additional independent reasons.

Claims 25 and 27-29 Are Non-Obvious Over Knudson'823 in view of D'Souza and further in view of Jerding'616.

[0077]   Claims 25 and 27-29 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Knudson'823 in view of D'Souza and further in view of Jerding'616. Applicant respectfully traverses the rejection.

Independent Claim 25

[0078]   Applicant submits that combination of Knudson'823, D'Souza and Jerding'616 does not teach or suggest at least the following features as recited in this claim (with emphasis added):

- "a virtual tuner that is executable on the processor to **launch one or more of said plurality of applications in response to selection of said content represented by the EPG,** independent of any application identifying information originating from a computer distinct from the client, said virtual tuner utilizing an application identification table that includes a listing of one or more applications to enable execution of each of said plurality of applications"

[0079]   The Examiner indicates on Office Action, pp. 26 and 27:

"In an analogous art D'Souza teaches, memory (memory 212-Fig.2) configured to maintain:
a plurality of applications that are executable on the processor to provide an output of content on the output interface, wherein at least one said content is television programming received at the network interface (Software programs 214, 216, 218, 220 - Fig.2; Paragraph 0021 teaches receiving video programming via network interface 208-Fig.2; Paragraph 0029-0030, 0037-0038 teaches different applications that may be executed to provide content

outputted to the display device for display to the client, where the content can be video programming);

a virtual tuner that is executable on the processor to launch one or more of said plurality of applications in response to selection of said content using the guide, independent of any application identifying information originating from a computer distinct from the client (application launcher 220-Fig.2; Paragraph 0029, 0037-0038 teaches software which manages the execution of each of the applications in response to selection of content utilizing the guide), Therefore, it would have been obvious to a person of ordinary skill in the art to modify Knudson'823s system to include the client includes a plurality of applications that are executable on the processor to provide an output of content on the output interface, wherein at least one said content is television programming received at the network interface; a virtual tuner that is executable on the processor to launch one or more of said plurality of applications in response to selection of said content using the guide, independent of any application identifying information originating from a computer distinct from the client, as taught by D'Souza, for the advantage of allowing a variety of desired content to be launched and played to the user independently by the system, providing a more intuitive, versatile, and robust system having greater control and management over execution of content."

[0080]   Knudson'823, Fig. 10, describes:

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CH	8.00	8:30	9:30
151	FAV. TV	DANTE'S PEAK	
152	FAV- DIG. AUDO	BEETLES	
53	TV	EDWARD THE GREAT	
54	FAV. GAME	NINTENDO	
55	VID. ON DEMAND	STAR WARS	STAR WARS
56	FAV. TV	NEWS	
57	FAV. TV	ER	

198a
196a
194a
196b
194b
198b
196c
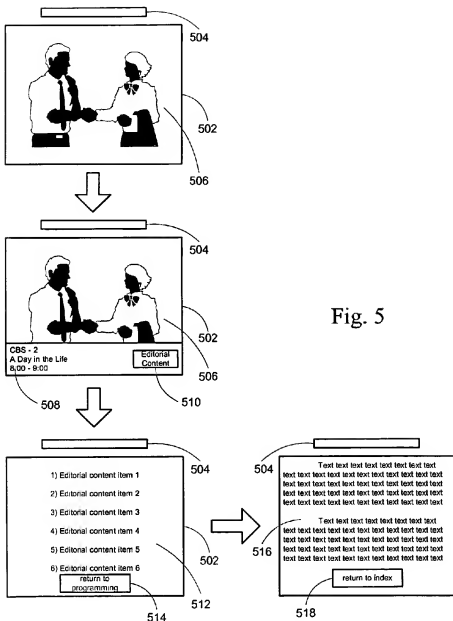
FIG. 10

[0081]   D'Souza, Fig. 5, describes:

Fig. 5

[0082]   The Examiner appears to implicitly equate the "editorial content item" in D'Souza with the "content" in the claims. The Examiner also indicates "**EPG content is merely just content that is displayed on an EPG while editorial content is of the same type of content, but might not necessarily be displayed on an EPG of D'Souza**". Office Action, p. 4.

Serial No.: 10/772,130
Atty Docket No.: MS1-1917US
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[0083]   D'Souza, however, describes that the editorial content is different from EPG data. As clearly seen from the comparison between Fig. 10 of Knudson'823 and Fig. 5 of D'Souza, the "editorial content item" in D'Souza is just rich media description of a EPG content instead of the EPG content itself.   D'Souza describes that the programming content 506 and editorial content 510 are two separate components.

[0084]   Applicant respectfully submits that the Examiner has not met his burden in showing an objective reason to combine Knudson'823 with D'Souza. The assertion "**for the advantage of allowing a variety of desired content to be launched and played to the user independently by the system, providing a more intuitive, versatile, and robust system having greater control and management over execution of content**" is a subjective judgment of the Examiner instead of objective reason.

[0085]   Applicant has a difficult time seeing how the Examiner's interpretation of D'Souza is not based, at least in part, on inadvertent impermissible hindsight. The Examiner appears to interpret D'Souza through the lens of Applicant's Application. D'Souza is not designed to resolve the problem of launching different applications by clicking on the EPG data. See [0005]. Instead, D'Souza is designed to solve the problem of simplicity of textual description of EPG data.

[0086]   D'Souza, [0005], expressly describes, with emphasis added:

"Currently deployed or developed cable systems provide functionality that allows for brief textual descriptions to be accessed through the use of an input device. **These brief textual descriptions typically comprise a summary of the program, rating, start and end times, and other miscellaneous**

programming data. **These current systems, however, do not provide access to rich media editorial content items. Furthermore, these brief textual descriptions do not provide for interactive functionality or contemplate executing interactive code to better interface with the user**.

[0087]   "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness," KSR Int'l Corp. v. Teleflex, Inc., Slip Op. at 14 (U.S. Apr. 30, 2007) (quoting In re Kahn, 441 F. 3d 977, 988 (CA Fed. 2006)).

[0088]   Applicant submits that the Examiner has not provided articulated reasoning nor has he identified some evidence, as rational underpinning, from the cited references themselves or from the knowledge of one of ordinary skill in the art that would have led one of ordinary skill in the art at the time of the invention (hereinafter, "OOSA") to combine the disclosures of the cited references in the manner claimed. More specifically, there is no reason to combine because the Examiner has not provided any objective and particular evidence showing why OOSA would be prompted to combine the teachings of Knudson'823 with D'Souza.

[0089]   Applicant respectfully submits that the Examiner cannot maintain this obviousness-based rejection without pointing out, with particularity, the specific portions of the cited references that would have prompted OOSA to look towards the teachings of the other to produce the combination of references that the Examiner proposes.

[0090]   For the foregoing reasons, Applicant submits that the Examiner has not met his burden in showing objective evidence to combine documents. Accordingly, OOSA would have no reason to combine the teachings of cited documents.

[0091]   Furthermore, Section 2143.03 of the MPEP requires the "consideration" of every claim feature in an obviousness determination. To render this claim unpatentable, however, the Office must do more than merely "consider" each and every feature for this claim. Instead, the asserted combination of D'Souza and Knudson'823 must also teach or suggest each and every claim feature. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (emphasis added) (to establish prima facie obviousness of a claimed invention, *all the claim features* must be taught or suggested by the prior art).

[0092]   Knudson'823 discloses "a selection screen wherein the program guide displays program listings for channels of available media types". Col. 9, lines 5-7. D'Souza describes displaying editorial contents of the EPG data. See Title and Fig. 5.

[0093]   The combination of Kundson'823 and D'Souza at most disclose, suggest, or teach displaying rich media editorial content items that describe or illustrate the EPG data. See Kundson'823, Fig. 10 and D'Souza, Fig. 5 and [0005].

[0094]   In contrast, this claim recites "a virtual tuner that is executable on the processor to **launch one or more of said plurality of applications in response to selection of said content represented by the EPG**, independent of any application identifying information originating from a computer distinct from the client, said virtual tuner utilizing an application identification table that includes a listing of one or more

applications to enable execution of each of said plurality of applications", which is not disclosed by D'Souza and Knudson'823.

[0095]   As shown above, the combination of Knudson'823, D'Souza, and Jerding'616 does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 27-29

[0096]   These claims ultimately depend upon independent claim 25. As discussed above, claim 25 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable.   Additionally, some or all of these claims may also be allowable for additional independent reasons.

Claim 26 Is Non-Obvious Over Knudson'823 in view of D'Souza in view of Jerding'616 and further in view of Jerding'982.

[0097]   Claim 26 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Knudson'823 in view of D'Souza in view of Jerding'616 and further in view of Jerding'982. Applicant respectfully traverses the rejection.

[0098]   This claim ultimately depends upon independent claim 25. As discussed above, claim 25 is allowable. It is axiomatic that any dependent claim which depends

from an allowable base claim is also allowable.   Additionally, this claim may also be allowable for additional independent reasons.

Claim 30 Is Non-Obvious Over Knudson'823 in view of D'Souza in view of Jerding'616 and further in view of Knudson'577

[0099]   Claim 30 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Knudson'823 in view of D'Souza in view of Jerding'616 and further in view of Knudson'577. Applicant respectfully traverses the rejection.

[00100] This claim ultimately depends upon independent claim 25.   As discussed above, claim 25 is allowable.   It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable.   Additionally, this claim may also be allowable for additional independent reasons.

Claim 31 Is Non-Obvious Over Knudson'823 in view of D'Souza in view of Jerding'616 and further in view of Hassell.

[00101]   Claim 31 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Knudson'823 in view of D'Souza in view of Jerding'616 and further in view of Hassell. Applicant respectfully traverses the rejection.

[00102] This claim ultimately depends upon independent claim 25. As discussed above, claim 25 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, this claim may also be allowable for additional independent reasons.

Claims 32 and 37 Are Non-Obvious Over Hassell in view of D'Souza and further in view of Jerding'616.

[00103] Claims 32 and 37 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Hassell in view of D'Souza and further in view of Jerding'616. Applicant respectfully traverses the rejection.

Independent Claim 32

[00104] Applicant submits that combination of D'Souza and Jerding'616 does not teach or suggest at least the following features as recited in this claim (with emphasis added):

- "a virtual tuner that is executable to **manage one or more of said plurality of applications in response to selection of said content represented by the EPG**, said virtual tuner utilizing an application identification table that includes a listing of one or more applications to enable execution of each of the plurality of applications independent of any application identifying information originating from a computer distinct from the client"

[00105] The Examiner indicates (Office Action, pp. 35 and 36) the following with regard

to the features of virtual tuner in this claim:

"In an analogous art D'Souza teaches, a plurality of applications that are executable thereon, wherein said content provided by a first said application is not compatible with a second said application (Software programs 214, 21 6, 218, 220 - Fig.2; Paragraph 0021 teaches receiving video programming via network interface 208-Fig.2; Paragraph 0029-0030, 0037-0038 teaches different applications that may be executed to provide content outputted to the display device for display to the client, where the content can be video programming. Paragraph 0022 teaches OS software in addition to various application software that are executed on set top terminal 202-Fig.2. *The fact that multiple applications are needed to launch different types of content and the content is first checked to determine what type of content it is prior to choosing the correct application to launch it, means that content that is provided by a first application is not compatible with a second application); and*

a virtual tuner that is executable to manage one or more said plurality of applications in response to selection of said content represented by the guide (application launcher 220-Fig.2; Paragraph 0029, 0037-0038 teaches software which manages the execution of each of the applications in response to events formed utilizing the guide), independent of any application identifying information originating from a computer distinct from the client (application launcher 220-Fig.2; Paragraph 0029, 0037-0038 teaches software which manages the execution of each of the applications in response to selection of content utilizing the guide).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Hassel's system to include a plurality of applications that are executable thereon, wherein said content provided by a first said application is not compatible with a second said application; and a virtual tuner that is executable to manage one or more said plurality of applications in response to selection of said content represented by the guide, independent of any application identifying information originating from a computer distinct from the client, as taught by D'Souza, for the advantage of allowing a variety of desired content to be launched and played to the user independently by the system, providing a more intuitive, versatile, and robust system having greater control and management over execution of content."
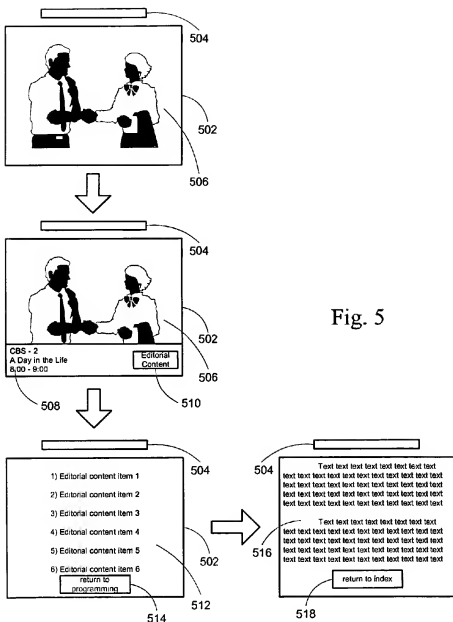
[00106] Hassell, Fig. 5b, describes:

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CHANNEL	7:00 PM	7:30 PM	8:00 PM
DIGITAL STORAGE	PROGRAM 1	PROGRAM 2	PROGRAM 3
2 PUBLIC TELEVISION	PROGRAM 1	149	PROGRAM 2
3 HBO	PROGRAM 1	PROGRAM 2	
4 NBC	PROGRAM 1	PROGRAM 2	PROGRAM 3
5 FOX	PROGRAM 1		

147   147   147   145

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FIG. 5b

[00107] D'Souza, Fig. 5, describes:

Fig. 5

[00108] The Examiner appears to implicitly equate the "editorial content item" in D'Souza with the "content" in the claims. The Examiner also indicates "**EPG content is merely just content that is displayed on an EPG while editorial content is of the same type of content, but might not necessarily be displayed on an EPG of D'Souza**". Office Action, p. 4.

[00109] D'Souza, however, describes that the editorial content is different from EPG data. As clearly seen from the comparison between Fig. 5b of Hassell and Fig. 5 of D'Souza, the "editorial content item" in D'Souza is just rich media description of a EPG content instead of the EPG content itself. D'Souza describes that the programming content 506 and editorial content 510 are two separate components.

[00110] Applicant respectfully submits that the Examiner has not met his burden in showing an objective reason to combine Hassell with D'Souza. The assertion "**for the advantage of allowing a variety of desired content to be launched and played to the user independently by the system, providing a more intuitive, versatile, and robust system having greater control and management over execution of content**" is a subjective judgment of the Examiner instead of objective reason.

[00111] Applicant has a difficult time seeing how the Examiner's interpretation of D'Souza is not based, at least in part, on inadvertent impermissible hindsight. The Examiner appears to interpret D'Souza through the lens of Applicant's Application. D'Souza is not designed to resolve the problem of launching different applications by clicking on the EPG data. See [0005]. Instead, D'Souza is designed to solve the problem of simplicity of textual description of EPG data.

[00112] D'Souza, [0005], expressly describes, with emphasis added:

"Currently deployed or developed cable systems provide functionality that allows for brief textual descriptions to be accessed through the use of an input device. **These brief textual descriptions typically comprise a summary of the program, rating, start and end times, and other miscellaneous**

programming data. **These current systems, however, do not provide access to rich media editorial content items. Furthermore, these brief textual descriptions do not provide for interactive functionality or contemplate executing interactive code to better interface with the user**.

[00113] "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness," KSR Int'l Corp. v. Teleflex, Inc., Slip Op. at 14 (U.S. Apr. 30, 2007) (quoting In re Kahn, 441 F. 3d 977, 988 (CA Fed. 2006)).

[00114] Applicant submits that the Examiner has not provided articulated reasoning nor has he identified some evidence, as rational underpinning, from the cited references themselves or from the knowledge of one of ordinary skill in the art that would have led one of ordinary skill in the art at the time of the invention (hereinafter, "OOSA") to combine the disclosures of the cited references in the manner claimed. More specifically, there is no reason to combine because the Examiner has not provided any objective and particular evidence showing why OOSA would be prompted to combine the teachings of Hassell with D'Souza.

[00115] Applicant respectfully submits that the Examiner cannot maintain this obviousness-based rejection without pointing out, with particularity, the specific portions of the cited references that would have prompted OOSA to look towards the teachings of the other to produce the combination of references that the Examiner proposes.

[00116] For the foregoing reasons, Applicant submits that the Examiner has not met his burden in showing objective evidence to combine documents. Accordingly, OOSA would have no reason to combine the teachings of cited documents.

[00117] Furthermore, Section 2143.03 of the MPEP requires the "consideration" of every claim feature in an obviousness determination. To render this claim unpatentable, however, the Office must do more than merely "consider" each and every feature for this claim. Instead, the asserted combination of D'Souza and Hassell must also teach or suggest each and every claim feature. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (emphasis added) (to establish prima facie obviousness of a claimed invention, *all the claim features* must be taught or suggested by the prior art).

[00118] Hassell discloses a television guide. See Title and Fig. 5b. D'Souza describes displaying editorial contents of the EPG data. See Title and Fig. 5.

[00119] The combination of Hassell and D'Souza at most disclose, suggest, or teach displaying rich media editorial content items that describe or illustrate the EPG data. See Hassell, Fig. 5b and D'Souza, Fig. 5 and [0005].

[00120] In contrast, this claim recites "**"a virtual tuner that is executable to manage one or more of said plurality of applications in response to selection of said content represented by the EPG, said virtual tuner utilizing an application identification table that includes a listing of one or more applications to enable execution of each of the plurality of applications independent of any application identifying information originating from a computer distinct from the client**", which is not disclosed by D'Souza and Hassell.

[00121] As shown above, the combination of Hassell, Jerding'616, and D'Souza does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claim 37

[00122] This claim ultimately depends upon independent claim 32. As discussed above, claim 32 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, this claim may also be allowable for additional independent reasons.

Claim 33 Is Non-Obvious Over Hassell in view of D'Souza in view of Jerding'616 and further in view of Hoarty.

[00123] Claim 33 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Hassell in view of D'Souza in view of Jerding'616 and further in view of Hoarty. Applicant respectfully traverses the rejection.

[00124] This claim ultimately depends upon independent claim 32. As discussed above, claim 32 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, this claim may also be allowable for additional independent reasons.

Claim 36 Is Non-Obvious Over Hassell in view of D'Souza in view of Jerding'616 and further in view of Jerding'982.

[00125] Claim 36 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Hassell in view of D'Souza in view of Jerding'616 and further in view of Jerding'982. Applicant respectfully traverses the rejection.

[00126] This claim ultimately depends upon independent claim 32. As discussed above, claim 32 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, this claim may also be allowable for additional independent reasons.

Conclusion

[00127] Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the Examiner is urged to contact the undersigned representative for the Applicant before issuing a subsequent Action.

Respectfully Submitted,

Lee & Hayes, PLLC
Representative for Applicant

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